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MAILED
FROM DIRECTORS OFFICE
DEC 28 2004
TECHNOLOGY CENTER 3600

In re application of : DECISION ON PETITION
Jeffrey D. Carnevali : TO MAKE SPECIAL
Application No. 10/733,691 : (INFRINGEMENT)
Filed: December 7, 2000 :
For: UNIVERSALLY POSITIONABLE
MOUNTING DEVICE

This is a decision on the petition under 37 C.F.R §1.102(d) filed November 8, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed November 8, 2004 lacks requirement 2(C) above. In this regard, petitioner states, "Applicant has previously provided one copy of each of the references deemed most closely related to the subject matter encompassed by the claims such that said references are already of record." However, the application file has been reviewed, and no copies provided by applicant, of the most closely related prior art, have been located. In view of this deficiency, the petition is DISMISSED.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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SNM/rwg: 12/20/04